

April 9, 1973

SENATOR LUEDTKE: I said, if they follow the standards, that then they would not, they would not be charged with negligence, in other words, if they follow the standards which we have already established, 70 of them, which we have been following all along, if we follow those standards, right now that is the state of affairs, you can not have a malpractice suit against a lawyer, if he follows those standards, and passes title and everybody accepts title anyway on that basis, because these have almost all of them have been fought through the courts or through committees, or the bar, so there really isn't any danger if you follow it that way. The protection to the lawyer that he have the same, have the same rights as he now has under the law.

SENATOR WHITNEY: Well, my question was if this is constitutional for us to allow the state bar association to determine what the standards were, and then the lawyers would not be negligent if they were following those standards, other than those standards as put into the law.

SENATOR LUEDTKE: There are none in the law, that's why we are saying this, we are taking them out of the law, and they are only going to be the standards of the Nebraska Bar Association. There will be no more standards by law, it's a field that is unnecessary, every business and every industry filled our law books up with standards for the way they run their business and we are complaining about that now, that we've got too much of it on the books. At long last as I say we are going to get rid of some of them and it's about time, we can handle it in the bar association, and we ought to do it that way. We ought to be smart enough to do it ourselves, we shouldn't ask to have laws to tell us you have to do what we have been doing any way.

SENATOR WHITNEY: Well the question is is it constitutional for a private agency to decide what the standard should be.

SENATOR LUEDTKE: It's not a matter of constitutionality, it is a lawyer's decision, and the only question would be whether he could be charged with negligence or malfeasance, duty malpractice whatever you want to call it for following that standard which has been accepted by everybody in the profession.

SENATOR WHITNEY: Now where can the attorneys find this, these standards?

SENATOR LUEDTKE: They are adopted by the Bar Association, which as you know is an integrated bar, which is, these standards are promulgated by the Supreme Court in an integrated bar, so we don't have any problems.

SENATOR WHITNEY: Okay, thank you.

PRESIDENT: Alright, Senator Nore.

SENATOR NORE: Mr. President and fellow members. I always have a little bit suspicions of lawyers, and I'm wondering on title examinations are there only lawyers that examine titles?

SENATOR LUEDTKE: If your looking for a legal opinion yes, only a lawyer can give you a legal opinion.

SENATOR NORE: Well there are other folks who are examining titles, now where would I find -- but they won't give a legal opinion, where can they find the rules?

SENATOR LUEDTKE: Pardon.

SENATOR NORE: If they aren't a lawyer where can they find the rules, if they aren't in the statutes?